

REMARKS

The Office Action

The Office Action dated March 29, 2006 has been carefully considered. It is noted with appreciation that claim 11, 12, 17, 18, 20-25, 62, and 65-70 are allowed, and that the subject matter of claims 10, 32-41, and 61 is allowable. Accordingly, claims 10, 32 and 61 are presented herein in independent form for allowance together with claims 33-41 which are dependent from claim 32.

Independent claims 6 and 31 remain for consideration together with claims 7-9, 63 and 64 which are dependent from claim 6 and claims 42 and 44 which are dependent from claim 31. For the reasons set forth hereinafter, it is respectfully submitted that claims 6 and 31 patentably distinguish under 35 U.S.C. §102(e), whereby withdrawal of the rejection of claims 6-9 and 31 as being anticipated by Hoffman et al. is in order and is respectfully solicited.

In paragraph 2 of the Office Action, the Examiner asserts that the tape dispenser of Hoffman et al. has "a radially extending dispensing arm 72," having a top and having a "bottom including a tape guide along which tape is dispensed," (emphasis added). The examiner further asserts in paragraph 2 of the Office Action that the tape guide has an outer end and "a serrated cutting edge, 74, forward of the outer end of the bottom." (Emphasis added). It is respectfully submitted, as shown in the attached copy of Figure 9 of the application of Hoffman et al., that the radial direction of extension of member 72 of the dispenser relative to roll support 38 is that shown by the arrow in red ink applied to Figure 9 by applicants. As is further shown in Figure 9 and described in paragraph 0027 of the application of Hoffman et al., tape to be dispensed extends from support 38 outwardly through opening 58 and across the radially outer end of member 72 for severing edge at 74. Therefore, the radially outer end surface of member 72 of Hoffmann et al. provides the "bottom including a tape guide along which tape is dispensed" as asserted by the Examiner. This is further evidenced by the Examiner's statement that the serrated cutting edge 74 of Hoffman et al. is "forward of the outer end of the bottom." As is clear from Figures 1-4 of Hoffman et al., the radially outer end surface of member 72 is planar in the

direction between the inner and outer ends thereof and in the direction between the opposite sides thereof.

Claim 6 calls for Applicants' tape guide to have laterally spaced-apart opposite sides and a central portion between and spaced below the sides. The planar radially outer end surface of member 72 providing the tape guide for the tape dispenser of Hoffman et al. does not meet this limitation. Claim 6 further requires Applicants' tape guide to include a plurality of ribs extending in the direction between the inner and outer ends of the tape guide. The radially outer end surface of the member 72 of Hoffman et al. is planar between the inner and outer ends and, accordingly, does not meet this limitation of claim 6. Likewise, the planar radially outer end surface of member 72 of Hoffman et al. does not meet the limitation that the central portion of the tape guide includes a pair of central ribs extending from the inner end and terminating at the outer end as is required in claim 6.

For the reasons set forth here and above, it is respectfully submitted that claim 6 patentably distinguishes from the published application of Hoffman et al. under 35 U.S.C. §102(e), whereby withdrawn of the rejection of claim 6 and claims 7-9 which are dependent therefrom is in order and is respectfully requested. Moreover, the planar radially outer surface of the member 72 in Hoffman et al. which provides the latter's tape guide does not include ledges extending in the direction between the inner and outer ends as required in claims 7 and 9 and does not include the rib structure defined in claim 8. Accordingly, these claims further patentably distinguish from Hoffman et al. under 35 U.S.C. §102(e).

It is respectfully submitted that Applicants' provisional patent application Serial No. 60/395,779 does support all of the limitations of independent claim 31, whereby the published application of Hoffman et al. is an improper prior art reference for citation under 35 U.S.C. §102 there against. In this respect, the drawings and description clearly disclose the planar wall, tape roll support, arcuate wall, first arm portion, second arm portion and planar third arm portion as structurally set forth in claim 31. Furthermore, the drawings, and in particular Figure 4, show the first and third arm portions having opposed inner sides and bottom edges, a tape guide between the inner edges including guide surfaces on the inner sides and a central portion between and spaced below the guide surfaces. Still

further, Figure 4 clearly shows that the guide surfaces include ledges extending along the inner sides of the first and third arm portions, and Figures 4 and 5 clearly show that the tape guide has an end spaced from the tape roll support and that the ledges terminate at the latter end of the tape guide.

In addition to Applicants' position regarding the disclosure of their provisional application, it is respectfully submitted that claim 31 patentably distinguishes under 35 U.S.C. §102(e) from the tape dispenser disclosed in the application to Hoffman et al. In particular in this respect, as pointed out hereinabove, the tape guide in the dispenser of Hoffman et al. is the planar surface at the radially outer end of member 72. Member 72 is solid and is removably attached to the remainder of the housing of the tape dispenser of Hoffman et al. Therefore, Hoffman et al. do not disclose a structure which includes first and third arm portions as structurally defined in claim 31 and which have opposed inner sides and bottom edges, and Hoffman et al. do not disclose a tape guide between the inner sides which include guide surfaces on the inner sides of the first and third arm portions and a central portion between and spaced below the guide surfaces. Furthermore, Hoffman et al. do not disclose ledges extending along the inner sides of the first and third arm portions as required in claim 31. It is respectfully submitted, therefore, that claim 31 patentably distinguishes under 35 U.S.C. §102(e) from the published application of Hoffman et al, whereby withdrawal of the rejection and allowance of claim 31 is in order and is respectfully solicited.

Further in support of the allowance of claims 6-9 and 31, in order for a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference, and these elements must be arranged as in the claim under review. *In re Bond*, 910 F.2d 831, 832, 15 USPQ.2d 1566, 1567 (Fed. Cir. 1990) citing *Diversitech Corp. v. Century Steps Inc.*, 850 F.2d 675, 677, 7 USPQ.2d 1315, 1317 (Fed. Cir. 1988) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). Hoffman et al. do not meet these requirements with regard to either claim 6 or claim 31.

Claims 42 and 44 which are dependent from claim 31 and claims 63 and 64 which are depend from claim 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hoffman et al. in view of either Patent 4,792,375 to Lin or Patent 6,612,474 to Shah. Lin and Shah disclose tape dispensers having manually operable brakes, but neither of these references overcomes the shortcomings of Hoffman et al. with regard to Applicants' dispenser structures as defined in claims 6 and 31. Accordingly, any modification of Hoffman et al. which one skilled in the art would make in view of the disclosures of Lin or Shah would not provide Applicants' tape dispenser structures as defined in claims 6 and 31.

The draftperson's objections to the formal drawings filed April 27, 2005, are noted, and Applicants stand ready to correct the drawings upon allowance of the application.

For the reasons set forth hereinabove, it is respectfully submitted that claims 6-9, 31, 42, 44, 63, and 64 patentably distinguish from the prior art and are allowable together with the remaining claims in the application which have been allowed or placed in condition for allowance by the foregoing amendment. Accordingly, the application is deemed to be in condition for allowance, whereby reconsideration and allowance is respectfully requested.

Respectfully submitted,

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